

C O P Y

417A

*in opinion*

June 25, 1957

Honorable Norman A. McMeekin  
Representative from Haverhill  
House of Representatives  
Concord, New Hampshire

Dear Mr. McMeekin:

In a conversation today you asked the views of this office on the question whether a matter is properly before the Legislative Council if submitted to it by but one branch of the General Court. Our comments are as follows.

By RSA 17:4 the duties of the Legislative Council are prescribed (in part) as follows:

"It shall be the duty of the legislative council to consider all matters referred to it by the general court and by the governor and council, as well as such problems of major concern throughout the state as might reasonably be expected to come before the general court for its consideration."

The question may in one aspect be considered on the issue whether the term "general court" as used above is intended to mean either House of the Legislature. The only guide we have is general usage in this regard; and general usage would appear to indicate that by the term both Houses collectively are intended.

Thus, the name "The General Court of New Hampshire" is given to the Senate and House in assembly. Const., Pt. Second, Art. 3. The supreme legislative power is vested "in the senate and house of representatives." Const., Pt. Second, Art. 2. It is "the general court" which is vested with the power to make laws. Const., Pt. Second, Art. 5.

When, on the other hand, reference is had to the several Houses, specific language is used. "All money bills shall originate in the house of representatives . . ." Const., Pt. Second, Art. 18. "Each branch of the legislature . . . shall have authority

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to require the opinions of the justices . . ." Const., Pt. Second, Art. 74. "[The Attorney General] shall, when required by either branch of the general court, give his opinion upon any question of law submitted to him therefrom." RSA 7:7.

In view of the foregoing it would seem a reasonable view of the law to hold that in RSA 17:4 (Legislative Council), the Legislature had reference to the concurrent action of the two branches of the General Court.

However, as noted in the language first quoted above, the Legislative Council has broad powers to consider matters on its own motion without the necessity of reference by the Governor and Council or by the General Court. If, therefore, in any instance the Legislative Council wishes to consider a matter attempted to be referred to it by a single branch of the Legislature, it may legally do so under such broad power; and the fact that the reference by the branch may have been ineffective will be immaterial.

Very truly yours,

Warren E. Waters  
Deputy Attorney General

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